IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 5TH DECEMBER 2007 / 14TH AGRAHAYANA 1929

Tr.P(Crl.).No. 72 of 2007()

ST.1756/2006 of J.M.F.C.-I,PALAKKAD

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PETITIONER:

V.SHAJI, S/O UNNI,
MIDHUN NIVAS, PATTANAKKAD POST,
CHERTHALA.

BY ADV. SRI.V.V.ASOKAN
SMT.S.AMINA

RESPONDENTS:

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1. K.C.PEETHAMBARAN,
S/O RAMANKUTTY, MUTHUKURINCHI,
KALOOR, KOCHI, NOW RESIDING AT
PANACHITHARA, VELOOR POST, KOTTAYAM-3.

2. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS TRANSFER PETITION (CRIMINAL) HAVING COME UP FOR ADMISSION ON 05/12/2007 , THE COURT ON 05/12/2007 PASSED THE FOLLOWING:

R.BASANT, J.

Tr.P.Crl.No.72 of 2007

Dated this the 5th day of December 2007

O R D E R

The petitioner is the complainant in a prosecution under Section 138 of the Negotiable Instruments Act. The petitioner resides permanently at Cherthala. The accused has a place of residence at Kochi. It is alleged that he is now residing at Kottayam. The complaint under Section 138 of the Negotiable Instruments Act was filed before the Judicial First Class Magistrate Court-I, Palakkad. The only event/act which, as per the averments in the complaint confers jurisdiction on the said court is the fact that the notice of demand was issued from the office of the Advocate, who is practicing at Palakkad. After the decision in Ahmedkutty Haji vs. State of Kerala 2007 (1) KLT 68 realising that the mere residence of the counsel at Palakkad will not confer the jurisdiction on the courts at Palakkad, this petition for transfer has been filed with a request that the case may be transferred to the Judicial First Class Magistrate Court at Cherthala.

2. Notice was given to the learned counsel for the respondent/accused. He has been duly served. There is no appearance for the respondent.

3. I am satisfied that the prayer for transfer is perfectly justified. The complainant resides at Cherthala and the failure to comply with the demand for payment has certainly taken place at Cherthala. The fifth act/event contemplated in K.Bhaskaran v. Sankaran Vaidhyan Balan [1999(3) KLT 440(SC) has taken place within the jurisdiction of court at Cherthala to which court the prayer for transfer is now made.

4. I must assume that the respondent has no objection against the prayer for transfer. He has not offered or raised any objections.

5. This petition is accordingly allowed. S.T.No.1756/2006 pending before the Judicial First Class Magistrate Court-I, Palakkad is transferred to the court of the Judicial First Class Magistrate Court-I, Cherthala. The learned Judicial First Class Magistrate Court-I, Palakkad shall forthwith forward the records to the learned Judicial First Class Magistrate Court, Cherthala and shall direct the parties to appear before this court on 15/1/2008. The records shall also be forwarded to that court forthwith.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007